IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 6113 of 2004

Between:
M/s.Sri Sivasakthi Traders, Allipuram,Nellore.rep.by its Priprietor Sri K.Perapa Naidu.

..... PETITIONER

AND

1 Commercial Tax officer-1, Nellore.
2 Appellate Deputy Commissioner (CT), Guntur Division,Guntur.
3 Additional Commissioner (CT) (Legal), A.P.Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of writ of mandamus granting stay of collection of the balance disputed cess of Rs.3,01,569/- for the year assessment 2000-01 (A.P.R.D.Cess) arising in pursuance of the proceedings of the third respondent dated 25-02-04 passed in CCT's Ref No.LV(1)/527, 943 & 281/03 read with the order of the second respondent dated 10-08-02 pending disposal of the appeal before the sales Tax Appellate Tribunal.

For the Petitioner:MR.S.KRISHNA MURTHY, Advocate.

For the Respondent Nos. 1 to 3 : GP FOR COMMERCIAL TAXES

The Court Made the Following :

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ORDER : (Per Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With the consent of the parties, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, the application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of six weeks. For six weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within six weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

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(Bilal Nazki, J)

7th July, 2004.

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(P.S.Narayana,J)

ajr.

To

1 The Commercial Tax officer-1, Nellore.
2 The Appellate Deputy Commissioner (CT), Guntur Division,Guntur.
3 The Additional Commissioner (CT) (Legal), A.P.Hyderabad.
4 Two C.Cs. to the Government Pleader for Commercial Taxes, High Court buildings, Hyderabad (O.U.T).
5 Two C.D. copies.